



STATE OF INDIANA

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February 26, 2015

Ms. Elizabeth A. Zeigler
453 Helmsburg Rd.
Nashville, IN 47448

Re: Formal Complaint 15-FC-50 (Expedited); Alleged Violation of the Open Door Law by the Brown County Board of Zoning Appeals

Dear Ms. Ziegler,

This advisory opinion is in response to your formal complaint alleging the Brown County Board of Zoning Appeals ("BZA") violated the Open Door Law (ODL), Ind. Code § 5-14-3-1 *et. seq.* The BZA has not responded despite an invitation to do so on February 18, 2015. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on February 11, 2015. Your complaint has been given expedited status.

BACKGROUND

Your complaint dated February 11, 2015 alleges the Brown County Board of Zoning Appeals violated the Open Door Law by locking the doors to the meeting place during a public meeting.

On January 28, 2015, the BZA held a public meeting in the Brown County Government Annex Building. It was discovered during the meeting the doors to the Government Building had been locked precluding interested members of the public from attending. This is not the first time the doors to the building have been locked during a meeting or threatened to be locked.

This Office has not received a response from the BZA despite the requirement that a public agency cooperate with the Office of the Public Access Counselor pursuant to Ind. Code § 5-14-5-5.

ANALYSIS

It is the intent of the Open Door Law (ODL) the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. See Ind. Code § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. See Ind. Code § 5-14-1.5-3(a).

Without the benefit of a response from the BZA, I cannot opine both ways or make an alternative determination based upon the facts presented. If the doors were indeed locked, it is a violation of the Open Door Law as members of the public were not permitted to observe and record.

Furthermore, you suggest if this Office finds the ODL was violated, any decision of a governing body would be declared void. Please be advised this Office does not have the unilateral authority to declare any action void. Injunctive relief of that nature would be issued by a trial court of local jurisdiction.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Brown County Board of Zoning Appeals has violated the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor